IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10978 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TARAPUR KELAVANI MANDAL - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR BHARAT T RAO for Petitioner(s) : 1,
MS CHANDARANA AGP for Respondent(s) : 1-3,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/07/2006

ORAL JUDGMENT

1. Rule. Learned AGP Ms. Chandarana wavies service of rule on behalf of respondents.

2. The grievance of the petitioner is that the respondents have refused the request of the petitioner for one additional class in standard 9 in the school run by the petitioner. In the impugned order dated 20th April, 2006 two reasons are indicated. Firstly, it is stated that no clarification is made with respect to the play ground as also the certificate of the structural engineer. It is additionally stated that there are not enough students justifying granting permission of one more class in standard 9.

3. Learned advocate Shri Rao submitted that the petitioner has already supplied the certificate for structural engineer and necessary documents showing that the petitioner school has the play ground facilities. He further submitted that there were 422 students in six classes of standard 8 and as many as 336 students in five classes of standard 9. He submitted that if the petitioner school is permitted to run an additional class in standard 9 and thereafter in 10th, there would be more than sufficient number of students available.

4. Learned AGP Ms. Chandarana upon written instructions submitted that the authorities were of the opinion that the students strength would not justify permission for an additional class.

5. Having heard learned advocates for the parties, it appears that there was some material before the

authorities regarding the play ground area and the structural engineer certificate, the same seems to have been overlooked. Additionally also, I find that there were as many as 422 students in standard 8 and 336 students in 9th standard surely there is a drop in number of students on account of insufficient number of classes in standard 9th. Considering all these aspects of the matter, the entire issue requires reconsideration. The authority shall re-examine the issues and take a fresh decision.

6. In the result the impugned order of the Government refusing the permission to the petitioner to add one more class in standard 9th is quashed. The petitioner shall make a formal representation within a period of one week from today. The same shall be considered and preferably within six weeks of its receipt bearing in mind above observations. With these directions, the petition is disposed of. Rule made absolute to the above extent. No costs.

7. Direct service permitted.

(Akil Kureshi, J.)

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